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Authority NNN 979503

By: TJ NARA Date 4/23/99

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PA/HO Department of State
E.O. 12958, as amended
August 6, 2007

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UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY
WASHINGTON

August 30, 1969

OFFICE OF
THE DEPUTY DIRECTOR

MEMORANDUM FOR THE SECRETARY OF STATE

THRU: S/S

FROM: ACDA - Philip J. Farley, Acting Director

SUBJECT: Seabeds Treaty - Information Memorandum

*P.J.F.
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Because of a hardening of the Defense position Friday afternoon, we will not be able to get instructions to Ambassador Leonard in Geneva this week regarding the Soviet August 19 Seabeds Treaty draft.

Initially, as Gerry Smith told you, we hoped to get comprehensive instructions out no later than today, authorizing Leonard to tell the Soviet representative that we could accept a 12-mile band if other aspects of the treaty could be worked out satisfactorily, and specifying other points which we would need added to the Soviet draft or clarified, and points on which we could concede something to the Soviets.

An initial meeting with Warren Nutter and others from Defense on August 27 revealed that Defense was unwilling to move toward the 12-mile limit and resolution of the associated problem of historic waters and the handling of verification in those waters, at least until the matter had gone to the President. We were given encouragement that they could accept some Soviet changes in our original draft, as an earnest of our readiness to negotiate while our decision on the 12-mile band is being taken. Accordingly, with the White House staff (Dr. Halperin) agreeing, we have been trying to get out instructions to inform the Soviets that we

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needed more time for our decision on the 12-mile band but we were prepared to negotiate on other matters and on this basis the other members of the Committee on Disarmament could be told that the matter was active.

Friday afternoon, however, Defense and Joint Staff representatives gave us inflexible positions which meant, in sum, that there would be no move toward the Soviet position. In particular:

a. They will not agree to any reference in the preamble to continuing negotiations toward prohibition of military activities on the seabed, even pursuant to a treaty on general and complete disarmament;

b. They cannot agree (as they had earlier in the week) with deletion of the word "fixed" in Article I with the negotiating history showing that submarines were not affected, but would require that "bottom crawlers" also be exempted in the negotiating history; and

c. They could not accept the Soviet substitution of "right of verification" for our phrase "right of observation" even with a negotiating history making clear that access to seabed facilities was not permitted as well as the treaty provision that there must not be interference with underseas activities.

Since the Soviet August 19 draft goes very far in our direction by accepting our denuclearization approach in place of their demilitarization approach, we do not believe that we can instruct Ambassador Leonard to open negotiations with the Soviets on a basis which gives no indication of readiness to bargain in a "give and take" spirit on remaining differences and gives no indication of our position on the 12-mile band. We would risk a strong Soviet reaction and a very difficult position in the Geneva Conference. In general, the Soviet proposal has seemed very forthcoming to other participants, including our allies, virtually all of whom consider the Soviet 12-mile band to be the best solution.

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I have told Warren Nutter that we believe there is urgency to a substantive response to the Soviets, and that we believe the 12-mile band can be accepted without prejudice to US interests, and that compromises can be found similarly on other points of difference. This position is reinforced by the Soviet action August 28 in giving us an aide memoire proposing urgent US-Soviet discussions on matters relating to a draft convention on Law of the Sea. This meets Defense concerns that the Soviets have not responded to our approaches on this related subject. More specifically, it reveals an apparent Soviet desire to do business with us on a number of matters which it should be in our interest to respond to.

State and ACDA officers are now proceeding to develop a policy memorandum which will afford a basis for establishing a US position on the seabeds treaty during the course of next week. State and Defense lawyers are meeting September 2. Shortly thereafter we will provide you with a memorandum outlining the US interests which make it desirable to respond to the Soviet proposal promptly and affirmatively, in hopes of working out a seabed treaty which could be submitted to the forthcoming session of the UN General Assembly. We will also set forth specifically positions on the 12-mile band and other questions which appear best adapted to protecting US interests while being negotiable in a situation where the Soviets appear to have presented a draft which on most points meets our stated objectives and the positions of the great majority of the countries who have expressed views on this subject.

Hopefully, when you receive that memorandum, it might provide a basis for you to get informal agreement from Secretary Laird that we can instruct Ambassador Leonard to tell the Soviets that we view their proposal affirmatively and will be ready shortly to negotiate in specific terms with them looking toward agreement on a treaty submission to the forthcoming General Assembly. Some indication of the US attitude is urgently needed in Geneva, where the Disarmament Conference had been scheduled to adjourn this week and delegations are in effect standing by to see how the United States reacts to a Soviet concession to our position.

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